REAL ESTATE AND BUY AMERICA

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REAL ESTATE AND BUY AMERICA

STATUTORY RESPONSIBILITY WITH NO CONSTITUTIONAL AUTHORITY
REAL ESTATE AND BUY AMERICA
The Bill of Rights
Ratified December 15, 1791

Article I
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Article II
A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Article III
No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Article IV
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Article VI
In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

Article VII
In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Article VIII
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Article IX
The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Article X
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.
Property Owner Rights are protected by the US Constitution and Federal Laws

US Constitution Fifth Amendment:

“No person shall….be deprived of life, liberty, or property without due process of law: nor shall private property be taken for public purpose without just compensation.”

Federal Law:

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
Also protected by the State Constitution and State Laws

Michigan Constitution:

“Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.”

Michigan Eminent Domain Law:

Uniform Condemnation Procedures Act 87 of 1980, as amended.
MAP 21

FHWA interpretation requires Buy America to apply to utilities regardless of property rights.
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Example:

- 10 Acre Residential Property
- 4 bedroom 2.5 bath ranch – 2500 square feet
  - married couple with two teenage daughters
- 2000 square foot steel building
  - Small Business - storage and small business (woodshop)
  - Located on front 5 acres
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Example (continued):

- Remaining 5 acres are recreational
- Includes utility owned transmission towers on an easement
- State DOT needs the 5 recreational acres
- Willing Sellers (both property owner and easement holder)
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Example (Continued):

- Property owner settles and plans to rebuild steel building on front 5 acres.

- Utility owner agrees to sell easement and agrees to move towers to adjacent property owned by utility with the state paying the cost to cure.
  
  - Utility refuses to certify steel for Buy America
Example (continued):

- State has no authority to compel utility to certify or cooperate in any way with provisions of Buy America
- FHWA can not fund project due to non-compliance with Buy America
Questions and Discussion